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File No. O. Letters Patent / 50

Legal Dept.

A. BRANCH

Subject:— Opinions under the Letters Patent Act.

File No. O - Letters Patent / 50

Gen. 194 e.

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C O N T E N T S.

Legal Department File No. O.Letters Patent/50-

Sr. No.	Compilation No,	Subject.	Pages.
	O Letters Patent 1950.	Opinions under the Letters Patent Act.	
1.	~~Cn. 6059 5-5-50~~	After the death of or departure of Sheriff and other person shall as soon as conveniently may be appointed and sworn in and shall continue in office for the remainder of the year.	1-3.

Paragraph 20 of the Letters Patent no doubt provides that "in case such Sheriff shall die in his Office, or depart from the territories subject to the Presidency of Bombay, then another person shall and may, as soon as conveniently may be after the death or departure of such Sheriff, be in like manner appointed and sworn in, as aforesaid and shall continue in his office for the remainder of the year, and until another Sheriff shall be duly appointed and sworn into the said office." The provision which couples death and departure together is intended more for a contingency whereby the incumbent vacates his office during the period. The fact that in case of departure the Sheriff so appointed to take the place of the departed Sheriff is to Continue in his office for the remainder of the year shows that a permanent departure was intended, i.e., when the original incumbent is not expected to return to his duty. Even otherwise departure in this context would have to be construed as permanent departure. In the case of In Re The Moravian Society (1858 Chancery, 26 Beav. 101), there was a provision in the Trust Deed that every trustee departing the United Kingdom from whatever cause or motive or under whatsoever circumstances be and be considered as thereby discharged and disconnected from the trust etc. The Master of the Rolls expressed the opinion that a trustee who might be temporarily absent from this country, without intending permanently to reside abroad, did not depart the United Kingdom or vacate his trust within the meaning of the Trust Deed, and he declared that no appointment of new trustee was necessary on the ground of such temporary departure. If 'departure' were to be construed as even temporary departure, the inconvenience would be so great that an absence from the State of Bombay, even out of India, for a short while may lead to the vacation of the office by the Sheriff. (contd)

VGP. 22-6-56.

2. For all these reasons I am of opinion that a temporary absence is not within the above provision of the Letters Patent, and that there is no objection to granting permission to the Sheriff to remain away from the territories of the State of Bombay for the period of six ~~maks~~ weeks.

Sd. P.M.Lad.
3/5.

Remembrancer of Legal Affairs.

U.R. to P.&.S.D.No. 6059, dated the 3rd May 1950.

VGP. 22-6-56.

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